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HIGH COURT OF CHHATTISGARH AT BILASPUR

Writ Petition (S) No. 2016 of 2007

Petitioners

1. Shashikant Dubey, Aged about 42 years, S/o Shri N. P. Dubey, Presently working as Peon in the office of Block Education Officer, Department of Tribal, Manendragarh, Distt. Korea, Chhattisgarh.
2. Jawahar Lal, Aged about 44 years, S/o Shri Tutua Ram, Presently working as Peon in Middle School (Tribal), Barbaspur, Distt. Korea, C.G.
3. Ram Sai Rajwade, Aged about 40 years, S/o Shri Nohar Sai, Presently working as Chowkidar in Govt. Boys Hostel (Tribal), Kachhoud, Distt. Korea, Chhattisgarh, C.G.
4. Bhajju Ram, Aged about 34 years, S/o Shri Rambhrosh, Presently working as Cook in Govt. Balak Ashram (Tribal), Tarabahra, Distt. Korea, Chhattisgarh.
5. Shiv Kumar Rathore, Aged about 43 years, S/o Shri Dhanwat, Presently working as Peon in Boys Ashram (Tribal), Khongapani, Block Manendragarh, Distt. Korea, C.G.
6. Hari Prasad, Aged about 38 years, S/o Shri Sunder Ram, Presently working as Peon in Post Matric Hostel (Tribal), Manendragarh, Department of Tribal, Distt. Korea, Chhattisgarh.
7. Lallu Singh, Aged about 44 years, S/o Shri Baijnath Singh, Presently working as Chowkidar in Block Education Office, Manndragarh, Distt. Korea, Chhatisgarh.

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8. Balram Singh, Aged about 42 years, S/o Shri Narendra Singh, Presently working as Peon in Govt. Balak Ashram (Tribal, Banji, Tehsil – Manendragarh, Distt. Korea, C.G.

9. Ram Narayan Sahu, Aged about 38 years, S/o Shri Vanspati Sahu, Presently working as Peon in Govt. Boys Hostel (Tribal), Kelhari, Distt. Korea, C.G.

10. Ram Kumar Singh, Aged about 45 years, S/o Shri Heera Singh, Presently working as Peon in Govt. Post Matric Hostel (Tribal), Manendragarh, Distt. Korea, C.G.

11. Ram Kishun, Aged about 39 years, S/o Shri Siyambar, Presently working as Peon in Govt. Post Matric Hostel (Tribal), Manendragarh, Distt. Korea, C.G.

12. Smt. Bechni Bai, Aged about 38 years, S/o Laxman Dias, Presently working as Peon in Govt. Kamla Nehru Girls Hostel (Tribal), Manendragarh, Distt. Korea, C.G.

13. Dal Pratap, Aged about 38 years, S/o Shri Budh Ram Singh, Presently working as Cook in Govt. High Secondary School (Tribal), Manendragarh, Distt. Korea, C.G.

14. Raja Babu, Aged about 44 years, S/o Shri Jugal Kishore, Presently working as Peon in Govt. Girls High School (Tribal), Baikunthpur, Distt. Korea, C.G.

15. Shobhnath, Aged about 40 years, S/o Shri Genda Ram, Presently working as Peon in Govt. Boys Playing Campus (Tribal),Manendragarh,Distt.Korea, C.G.

16. Pushpendra Pandey, Aged about 39 years, S/o Shri Baidnath Prasad, Presently working as Peon in Govt. Boys Plaing Campus (Tribal), Manendragarh, C.G.

17. Ramesh Kumar Vishwakarma, Aged about 40 years, S/o Late Shri Ram Jiyawan, Presently working as Cook in Govt. Boys Playing Campus (Tribal), Manendragarh, Distt. Korea, C.G.

Versus

Respondents

1. State of Chhattisgarh, Through – Secretary, Department of General Administration, D.K.S. Bhawan, Mantralaya, Raipur, Chhattisgarh.
2. Commissioner, Department of Adim Jati & Tribal Welfare, Raipur, Chhattisgarh.
3. Assistant Commissioner, Department of Tribal Welfare, Korea, Distt. Kora, Chhattisgarh.
4. Block Education Officer, Manendragarh, Distt. Korea, Chhattisgarh.

Single Bench: Hon'ble Mr. Justice **Satish K. Agnihotri**.

Shri Pankaj Shrivastava, Advocate for the Petitioners.
Miss Deepali Pandey, Panel Lawyer for the respondents.

ORDER

(Passed on this 3rd day of April 2007)

1. By this petition, the petitioners have challenged the validity of the order dated 17.2.2007 (Annexure P/2) passed by the Assistant Commissioner, Tribal Development Korea (Respondent No.3), pursuant to the circular dated 3.1.2007 (Annexure P/1) issued by the General Administration Department, Govt. of Chhattisgarh, whereunder the grant of regular pay scales to the petitioners were

withdrawn and the petitioners were paid thereafter daily wages as per Collector's rate.

2. The indisputable facts in nutshell, are that initially the petitioners were engaged on daily wages on various posts and thereafter granted regular pay scales as under:-

Name of the petitioner	Post	Date of Appointment	Date of Regular Pay Scale
1. Sashikant Dubey	Peon	5.8.1989	1.9.1993
2. Jawahar Lal	Peon	5.8.1989	1.9.1993
3. Ram Sai Rajwade	Chowkidar	31.3.1991	26.6.1996
4. Bhajju Ram	Cook	12.7.1991	24.6.1996
5. Shiv Kumar Rathore	Peon	15.1.1993	26.12.1996
6. Hari Prasad	Peon	5.7.1989	1.9.1993
7. Lallu Singh	Chowkidar	11.10.1989	11.10.1992
8. Balram Singh	Peon	7.10.1989	1/3.9.1993
9. Ram Narayan Sahu	Waterman	1.6.1991	26.6.1993
10.Ram Kumar	Peon	7.10.1989	1.9.1993
11.Ram Kishun	Peon	12.7.1989	1.9.1993
12.Smt. Bechni Bai	Chowkidar	27.7.1991	15.11.1996
13.Dal Pratap	Cook	13.1.1994	2.9.1997
14.Raja Babu	Peon	29.5.1990	1.10.1993
15.Shobhnath	Peon	12.4.1993	12.4.1996
16.Pushpendra Pandey	Peon	16.4.1993	16.4.1996
17.Ramesh Kumar Vishwakarma	Cook	12.4.1993	16.8.1996

3. Learned counsel appearing for the petitioners submits that the State of Chhattisgarh through the General Administration Department issued a circular dated 3.1.2007 (Annexure P/1) wherein it is instructed that the employees who were engaged on daily wages after 31.12.1988 and have been regularized on completion of three years services, such regularization of employees is not in accordance with the rules/regulations. Therefore, not to grant regular pay to any of such employees. Pursuant to that circular dated 3.1.2007, the respondent No.3 has issued the order dated 17.2.2007 (Annexure P/2) whereby the salary of the petitioners has been reduced to the Collector's rate.

4. Learned counsel appearing for the petitioners would contend that once a right of a particular pay scale has been granted to the petitioners in accordance with law, the same cannot be withdrawn

after a period of more than ten years, without affording an opportunity of hearing. The petitioners have acquired the right to the fixed monthly pay scale as their services were regularized. Thus the impugned circular as well as the impugned order are bad and deserve to be quashed.

5. Learned counsel for the petitioners heavily referred to a judgment and order dated 18th January, 2006 passed by this Court in Writ Petition No. 2125/2002 (**Sant Kumar & others Vs. State of Chhattisgarh & others**), wherein this Court while considering the identical issue of reducing the regular pay scale granted earlier, held that the order reducing the pay scale of an employee behind their back, without following any procedure known to law is punitive and visits with civil consequence. The same cannot be passed without giving concerned employee, an opportunity of hearing.

6. Learned counsel for the petitioner further submits that the respondents/State of Chhattisgarh preferred a Special Leave Petition (Civil) No. 17122/2006 (State of Chhattisgarh & others Vs. Sant Kumar & others) before the Hon'ble Supreme Court, challenging the order dated 18.1.2006 (supra), passed by this Court and the same has been dismissed by the Hon'ble Supreme Court vide order dated 9.10.2006 after condoning the delay.

7. In view of the foregoing, I am of the considered opinion that the impugned order dated 17.2.2007 (Annexure P/2), which has been issued pursuant to the circular 3.1.2007 (Annexure P/1), is bad in law, being punitive in nature, without affording an opportunity of hearing to the concerned employees (petitioners) for putting forward their cases.

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8. Accordingly the order dated 17.2.2007 (Annexure P/2) is quashed. The petitioners are entitled to regular pay scales from the date the same have been withdrawn by the impugned order. No order as to costs.

Sd/-
Satish K. Agnihotri
Judge

Indu/
Thakur